IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 8743,8778,8780,8801 and 8802 of 2005 and CONTEMPT CASE NO.344 of 2005

WRIT PETITION NO : 8743 of 2005

Between:

P. Narender, S/o. Krishnaiah, In-charge Prohibition and Excise Sub Inspector, presently working at S.H.O., Pargi, Ranga Reddy District.

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad.
2 The Prohibition and Excise Superintendent, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction especially one in the nature of Writ of Certiorari calling for the records pertaining to orders passed in O.A.No. 1672 of 2005 dated 15-4-2005 on the file of A.P. Administrative Tribunal and quash the same and further declaring that petitioner is entitled to continue as Excise Sub Inspector (Incharge) in terms of the Orders passed on 28-8-2004.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondents: GP FOR SERVICES II

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WRIT PETITION NO : 8778 of 2005

Between:

N. Damodar Reddy, S/o. Sri N. Venkat Reddy, In-charge Prohibition and Excise Sub-Inspector, presently working at Krishna Check Post, Mahaboobnagar District.

..... PETITIONER

AND

1. The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad.
2 The Prohibition and Excise Superintendent, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction especially one in the nature of writ of Certiorari calling for the records pertaining to orders passed in O.A No.1693 of 2005 dt.15.4.2005 on the file of A.P.Administrative Tribunal and quash the same and further declare that petitioner is entitled to continue as Excise Sub Inspector (In-charge) in terms of the orders passed on 28.8.2004.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondents: GP FOR SERVICES II

WRIT PETITION NO : 8780 of 2005

Between:

Srinivasulu, S/o.Balaiah, In-charge Prohibition and Excise Sub-Inspector, presently working at S.D.P.E.O., Vikarabad, Ranga Reddy District.

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad.
2 The Prohibition and Excise Superintendent, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction especially one in the nature of writ of certiorari calling for the records pertaining to orders passed in O.A.No.1695 of 2005 dated 15-4-2005 on the file of A.P. Administrative Tribunal and quash the same and further declare that petitioner is entitled to continue as Excise Sub Inspector (Incharge) in terms of the orders passed on 28-8-2004 and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondents: GP FOR SERVICES II

WRIT PETITION NO : 8801 of 2005

Between:

Balanna, s/o.Narsimloo, In-charge Prohibtion and Excise Sub-Inspector, Station House Officer, Dhoolpet, Hyderabad.

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad.
2 The Prohibition and Excise Superintendent Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction especially one in the nature of Writ of Certiorari calling for the records pertaining to orders passed in O.A No.1691 of 2005 dt.15.4.2005 on the file of A.P.Administrative Tribunal and quash the same and further declare that petitioner is entitled to continue as Excise Sub Inspector (Incharge) in terms of the orders passed on 28.8.2004.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondents: GP FOR SERVICES II

WRIT PETITION NO : 8802 of 2005

Between:

B. Renuka W/o. Ramesh Babu, In-charge Prohibition and Excise Sub Inspector, Station House Officer, Dhoolpet, Hyderabad.

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition Excise, Hyderabad Division, Hyderabad.
2 The Prohibition and Excise Superintendent, Hyderabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction especially one in the nature of writ of Certiorari calling for the records pertaining to Orders passed in O.A.No. 1694 of 2005 dt. 15-4-2005 on the file of A.P. Administrative Tribunal and quash the same and further declare that petitioner is entitled to continue as Excise Sub Inspector (Incharge) in terms of the orders passed on 28-8-2004.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondents: GP FOR SERVICES II

CONTEMPT CASE NO : 344 of 2005

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for violating, disobeying the Order of the High Court dated 4.2.2005 in WP No.19701 of 2003.

Between:

G. Madhusudhan Reddy, s/o Rajamalla Reddy, Prohibition and

Excise Head Constable,
Quthbullapur Excise Station, Ranga Reddy District.

..... PETITIONER

AND

1 The Government of A.P., represented by Secretary,
Revenue (Excise-II) Department, Secretariat,
Hyderabad. (RR 1,2 & 4 to 7 are not necessary parties)
2 The Commissioner of Prohibition & Excise
Government of A.P., Nampally,
Hyderabad. (RR 1,2 & 4to 7 are not necessary parties)
3 Sri Ben-Hur Mahesh Dutt Ekka, I.A.S. Deputy Commissioner,
Prohibition & Excise, Hyderabad Division,
Nampally, Hyderabad.
4 M. Vema Reddy S/o Narayana Reddy, Junior Assistant,
O/o Prohibition & Excise Station, Uppal,
R.R.Dist. (RR 1,2 & 4to 7 are not necessary parties)
5 L. Balagangadhar, S/o Sattaiah,, Junior Assistant,
O/o Prohibition & Excise Station, Uppal,
R.R.Dist. R/o Hyderabad. (RR 1,2 & 4to 7 are not necessary parties)

6 M. Phaninder Reddy, S/o Venkat Reddy, Junior Assistant,
O/o Prohibition & Excise Station, Uppal,
R.R.Dist. R/o Hyderabad. (RR 1,2 & 4to 7 are not necessary parties)

7 B. Ashok S/o Sattaiah, Junior Assistant,
O/o Prohibition & Excise Station, Uppal,
R.R.Dist. R/o Hyderabad. (RR 1,2 & 4to 7 are not necessary parties)

.....RESPONDENTS

Counsel for the Petitioner: MR.M.RATNA REDDY

Counsel for the Respondent Nos.1 to 3: G.P. FOR SERVICES-II.

The Court made the following:

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ORAL ORDER: (per GB. J.)

All these matters can be disposed of by a common order as they relate to the in-charge arrangement to the post of Excise Sub-Inspectors.

2. It is not in dispute that for the appointment to the post of Excise Sub-Inspectors, three channels have been provided in the rules in the ratio of 50:20:25, i.e., one by direct recruitment, other, promotion by Head Constables and another from Junior Assistants category. However, we are only concerned with the in-charge arrangements as on 29.7.2004.

3. It is now conceded by the learned counsel for the petitioners and respondents and also the learned Government Pleader for Services-II that as on August, 2004, vacancies in the cadre of Excise Sub-Inspectors were available to the extent of 30, which have to be filled up by in-charge arrangements and according to the practice followed even in respect of the in-charge arrangements, it has to be equally shared by 1:1 between the Head Constables and Junior Assistants. While the matter stood thus, only seven Head Constables and 23 Junior Assistants were given in-charge arrangements as on 29.7.2004 vide proceedings dated 28.8.2004. It is the grievance of the Head Constables that as per the decision rendered by this Court in Writ Petition No.19701 of 2003, dated 4.2.2005, 19 backlog posts of Excise Sub-Inspectors have to be filled up from among the Head Constables. Even otherwise as on the said date four Head Constables have already acquired qualification for holding the post of Excise Sub-Inspector. Therefore, these Head Constables are required to be promoted on in-charge basis.

4. On the other hand the learned counsel appearing for the Junior Assistants Mr.M.Ratna Reddy submits that while they have no grievance about the sharing of in-charge arrangements at 50:50, the crucial date has to be taken into consideration as 27.4.2004 and taking into consideration the above fact, if the in-charge arrangements are made, they have no grievance at all.

5. We have also heard the learned Government Pleader on this aspect. He submits that out of 134 posts, for which in-charge arrangements have been made, 67 Junior Assistants and 67 Head Constables were given in-charge arrangements and

therefore there cannot be any grievance with regard to the in-charge arrangements.

6. We have heard the learned counsel for the parties at length.

7. As regards in-charge arrangements by Head Constables, we find the ratio is not maintained as on 29.7.2004. It is true that though some of the Head Constables did not acquire the eligibility criteria as on the said date, it is now stated before this Court that four Head Constables acquired requisite qualification as on 29.7.2004. Therefore, instead of promoting seven Head Constables on in-charge basis, the Department ought to have promoted 11 Head Constables in that cadre.

8. Under those circumstances, we dispose of these Writ Petitions and also the Contempt Case with the following directions:

1. That the petitioner covered by CC.No.344 of 2005 shall be promoted as in-charge Excise Sub-Inspector by reducing the strength of the in-charge arrangements given to Junior Assistants to that extent and the remaining Junior Assistants will continue as in-charge Excise Sub-Inspectors.

2. It is made clear that the ratio of 50:50 has to be maintained when the Excise Sub-Inspector vacancies are sought to be filled by in-charge arrangements.

3. Even by taking four Head Constables into consideration, there will be still four more vacancies, which are required to go to Head Constables on in-charge basis. Therefore as and when they acquire qualifications, Head Constables also should be given in-charge arrangements.

4. The four Head Constables covered by C.C.No.344 of 2005 shall be granted in-charge arrangements forthwith.

There shall be no order as to costs.

(G.BIKSHAPATHY, J.)

21st April, 2005.

(P.S.NARAYANA, J.)

SSR

Issue copy in three days.

(BO)

To

1 Sri Ben-Hur Mahesh Dutt Ekka, I.A.S. Deputy Commissioner of Prohibition and Excise, Hyderabad Division, Hyderabad.
2 The Prohibition and Excise Superintendent, Ranga Reddy District.

3 The Secretary, Government of Andhra Pradesh,
Revenue (Excise-II) Department, Secretariat,
Hyderabad.
4 The Commissioner of Prohibition & Excise
Government of Andhra Pradesh, Nampally,
Hyderabad.
5 The Registrar, A.P. Administrative Tribunal, Hyderabad.

6 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

7 2 CD copies.

*Form-NIC-OGS/WP{**RLD**}*